

*D.C.
Nonprofit
Organizations
Oversight
Improvement
Act of 2006:
Analysis of
Proposed
Amendments*

EXECUTIVE SUMMARY

The Council for the District of Columbia is considering amendments to the D.C. Code that, if passed, would have a significant impact on nonprofit organizations that are organized or doing business in the District of Columbia. The proposed amendments appear to be more stringent than the American Bar Association's Model Nonprofit Act and other state statutes governing the involuntary dissolutions of nonprofit corporations.

D.C. NONPROFIT ORGANIZATIONS OVERSIGHT IMPROVEMENT ACT OF 2006

D.C. Councilmember Linda Cropp introduced Bill 16-759, the "Nonprofit Organizations Oversight Improvement Act of 2006" earlier this year. The purpose of the bill is to facilitate investigations of possible violations of the laws governing nonprofit corporations and charitable solicitations. The Committee on the Judiciary held a public hearing and requested public comment on the bill in November. The bill is before the Committee on the Judiciary for mark-up and the D.C. Council is scheduled to vote on the bill at its December 5, 2006 meeting.

Congress adopted the District of Columbia Nonprofit Corporation Act in 1962 and the D.C. government has not made many changes to the text of the statute since. The proposed amendments

to D.C.'s current nonprofit corporation statutes would significantly broaden the power of the D.C. government to investigate nonprofit corporations. The proposed amendments also greatly expand the remedies available to D.C. courts against nonprofit corporations that have violated or may violate the nonprofit corporation statutes. The proposed amendments apply to both nonprofit corporations organized in D.C. and foreign nonprofit corporations conducting business in D.C., since foreign nonprofit corporations are subject to the same laws of conduct as nonprofit corporations organized in D.C.

SUMMARY OF PROPOSED REVISIONS

The following is a summary of the proposed revisions that would have the most significant impact on nonprofit corporations organized or conducting business in the District of Columbia:

- Defines nonprofit purpose as a "purpose other than to generate income, profit or increase monetary value." This could be interpreted as banning all nonprofit corporations from generating income.
- Grants the D.C. Attorney General the authority to conduct investigations of nonprofit corporations. The current statute gives oversight authority of nonprofit corporations to the Mayor of D.C.

- Gives D.C. courts additional remedies against nonprofit corporations that have violated the statutes. The current statute only provides for involuntary dissolution in an action filed by the D.C. government. Under the proposed amendments, courts can place a nonprofit corporation in receivership, impose a constructive trust on compensation paid to a director, officer or manager or grant other injunctive or equitable relief. These remedies are available when the court finds that the nonprofit has acted or would act in a way that is inconsistent with the nonprofit's purpose, such as paying unreasonable compensation to an officer, director or manager or making extravagant expenditures.
- Grants the D.C. Attorney General broad power to investigate nonprofit corporations to determine whether there is a reason to bring a court action, including subpoena power.

**For more information
please contact:**

Allan Weiner

202-342-8431

AWeiner@KelleyDrye.com

Troy Reynolds

202-342-8559

TReynolds@KelleyDrye.com

Danielle Fisher

202-342-8528

DFisher@KelleyDrye.com

Alexandra Zelikson

202-342-8446

AZelikson@KelleyDrye.com